IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE THE ACTING CHIEF JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE G.CHANDRAIAH

WRIT PETITION NO : 13173 of 2005

Between:

M/s. Devi Traders, Room No. 3, D.No. 3/28,
K.C. Road, Noonepalli, Nandyal - 518 503,
Rep by its Managing Partner,

Mr. C. Suresh Kumar

..... PETITIONER

AND

The Assistant Commercial Tax Officer,

Int. Chittoor Division, Chittoor.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ or Order or direction declaring the detention of goods by the Respondent in his notice dated 17-6-2005 as illegal, arbitrary and without jurisdiction and consequently direct the Respondent to release the goods, namely, 17 MTs of raw rice being transported in lorry No. AP 21 W 3839 to the buyer in Tamilnadu State forthwith to the petitioner and pass such other order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.S.DWARAKANATH

Counsel for the Respondent: GP FOR COMMERCIAL TAX

The Court made the following :

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ORDER: (Per Hon'ble Sri Bilal Nazki, The Acting Chief Justice)

Heard learned Counsel for the parties.

Goods have been detained by the respondents on the ground that true value of the goods was not properly noted in the documents. Goods have been valued by the respondents as Rs.2,60,100/- in terms of Section 45 of the Andhra Pradesh General Sales Tax Act, 1957 (for short 'the Act'). As Per Section 45 (3) of the Act, a demand of tax can be made pending enquiry.

In these circumstances, we direct that the tax shall be paid on the goods worth Rs.2,60,100/-. If paid, the goods shall be released pending enquiry. We have been told at the bar that the goods attract tax at the rate of 4%. Therefore, we direct that on payment of Rs.10,400/-, the goods be released subject to outcome of the enquiry.

Writ Petition is accordingly disposed of. No costs.

Bilal Nazki, A.C.J

G.Chandraiah, J

21st June, 2005

Note:

Wire at

party's costs

B/o

LUR

Copy to:

1 The Assistant Commercial Tax Officer,

Int. Chittoor Division, Chittoor.

2 Two CCs to the G.P for Commercial Tax,

High Court Buildings,

High Court of A.P.,Hyderabad.(O.U.T.)

3 Two CD copies.